

### REMARKS

Applicant has reviewed and considered the Office Action dated May 22, 2003, and the references cited therewith.

Claims 1, 14, 26 and 34 have been amended; no claims are cancelled or added. It is believed that the amendments are supported by the specification, including, for example, the portion at page 2, line 23 *et. seq.*

### §102 Rejection of the Claims

Claims 1, 3, 4, 6-8, 12-14, 19, 23-28, 31-34, 42, 44 and 45 were rejected under 35 USC § 102(b) as being anticipated by Throne-Booth (U.S. 3,519,805).

Notwithstanding the amendment of claims 1, 14, 26 and 34, Applicant respectfully traverses the rejection and submits that *prima facie* anticipation has not been established. For example, Applicant is unable to find, in the cited document, a teaching of a first range detector coupled to the processor and coupled to the vehicle, as recited in claim 1. In addition, Applicant is unable to find, in the cited document, a teaching wherein the processor executes instructions to operate the brake controller to selectively apply and release a brake of the vehicle based on a comparison of a deceleration profile with range data from the first range detector and a speed of the vehicle, as recited in claim 1. As to claim 14, Applicant is unable to find, in the cited document, a teaching of generating an electronic correction signal based on a comparison of the distance data and speed information with a deceleration profile. In addition, Applicant is unable to find, in the cited document, a teaching of receiving obstacle information from a sensor insensitive to speed, the sensor coupled to the vehicle, as recited in claim 26. Furthermore, Applicant is unable to find, in the cited document, a teaching of determining a deceleration profile based on the speed information and the obstacle information, as recited in claim 26. As to claim 34, Applicant is unable to find, in the cited document, a teaching of receiving an electronic condition signal for the vehicle from a sensor insensitive to speed. In addition, Applicant is unable to find, in the cited document, a teaching of modulating a brake system of the vehicle to restrict vehicle movement based on the electronic speed signal, electronic direction signal and the electronic condition signal, as recited in claim 34.

As to dependent claims 3, 4, 6-8, 12, 13, 19, 23-25, 27, 28, 31-33, 42, 44 and 45, Applicant respectfully submits that each recites additional elements beyond those of the base claim from which each depends. Thus, it appears that each is also in condition for allowance.

Applicant respectfully traverses the Office Action assertions concerning "tachometers are generally coupled to a speedometer," "it is well known in the vehicle arts to use a Hall effect sensor as a wheel speed sensor, which is categorized as a tachometer," "a wheel speed sensor fall into a category of tachometer," "a wheel speed sensor or tachometer measure distance over time," and "a wheel speed sensor can be defined as a tachometer 14, both measure speed of rotation." Applicant requests citation to an authority, entry of an affidavit, or withdrawal of the assertions.

The Office Action asserted that "Throne-Booth discloses a system designed to modulate the brake pressure. . . ." Applicant is unable to find, in the cited document, a teaching of modulating a brake pressure. The Office Action does not provide a specific citation to a relevant portion of Throne-Booth in support of the assertion. Applicant respectfully requests a citation, clarification or withdrawal of the assertion.

Applicant respectfully traverses the assertion in the Office Action concerning "a data bus is defined by the examiner as an information line between the sensor . . . and the processor." Applicant requests citation to an authority, entry of an affidavit, or withdrawal of the assertion.

Applicant respectfully traverses the Office Action assertions concerning "common vehicle brake components include dump valves and hold valves which are normally controlled by electrical signals." Applicant requests citation to an authority, entry of an affidavit, or withdrawal of the assertions.

The cited portions of Throne-Booth do not appear to support the assertions presented in the Office Action. Consequently, and for these and other reasons, Applicant respectfully submits that *prima facie* anticipation has not been established. Reconsideration and allowance of claims 1, 3, 4, 6-8, 12-14, 19, 23-28, 31-34, 42, 44 and 45, is respectfully requested.

§103 Rejection of the Claims

Claims 2, 9-11, 15-18, 20-22, 29 And 30 were rejected under 35 USC § 103(a) as being unpatentable over Throne-Booth (US 3,519,805) in view of Smithline (US 5,734,336).

Applicant respectfully traverses the rejection and submits that *prima facie* obviousness has not been established. For example, the requisite motivation or suggestion to pursue the proposed combination is lacking. The Office Action asserted:

it would have been an obvious matter of design choice to have provided the range detector and processor of Thorne-Booth with a transmitter and wireless receiver as taught by Smithline, since wireless systems are easily retrofitted to existing vehicles. The use of wireless transmission systems is considered a design choice, that would have reduced labor requirements during attachment to the vehicle as well as a reduction in weight attributed to the wires. *Page 6.*

Applicant respectfully traverses such assertions and submits that such reasoning does not establish a motivation to combine. The Office Action has not identified a source for the asserted desirability. Furthermore, such reasoning does not appear to consider the costs and additional complexity associated with the use of wireless systems. It appears that the source for motivation set forth in the Office Action is contrary to M.P.E.P. § 2143.01 which provides that the fact that the claimed subject matter is within the capabilities of one of ordinary skill in the art is not sufficient, by itself, to establish *prima facie* obviousness. Thus, it appears that the proposed combination is improper.

In addition, Applicant respectfully submits that the addition of Smithline to Throne-Booth does not cure the shortcomings noted above with regard to Throne-Booth alone. Thus, it appears that the proposed combination does not teach or suggest all elements recited in the claims.

Reconsideration and allowance of claims 2, 9-11, 15-18, 20-22, 29 and 30 is respectfully requested.

Claim 5 was rejected under 35 USC § 103(a) as being unpatentable over Throne-Booth in view of Noyori et al. (US 3,918,058).

Applicant respectfully traverses the rejection and submits that *prima facie* obviousness has not been established. For example, the requisite motivation or suggestion to pursue the proposed combination is lacking. The Office Action asserted:

it would have been an obvious matter of design choice for one of ordinary skill in the art to have utilized a Doppler radar sensor to detect vehicle speed in the apparatus of Thorne-Booth as taught by Noyori et al., the Doppler radar sensor system is functionally equivalent to a wheel speed sensor. *Page 7.*

Applicant respectfully traverses such assertions and submits that such reasoning does not establish a motivation to combine. The Office Action has not identified a source for the asserted desirability. Applicant finds no support, in the proposed combination, for the assertion that a Doppler radar sensor system is functionally equivalent to a wheel speed sensor. Citation to an authority, withdrawal of the assertion or entry of an affidavit is respectfully requested. It appears that the source for motivation set forth in the Office Action is contrary to M.P.E.P. § 2143.01 which provides that the fact that the claimed subject matter is within the capabilities of one of ordinary skill in the art is not sufficient, by itself, to establish *prima facie* obviousness. Thus, it appears that the proposed combination is improper.

In addition, Applicant respectfully submits that the addition of Noyori to Throne-Booth does not cure the shortcomings noted above with regard to Throne-Booth alone. Thus, it appears that the proposed combination does not teach or suggest all elements recited in the claims.

Reconsideration and allowance of claim 5 is respectfully requested.

*Allowable Subject Matter*

Claims 35-41 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant respectfully traverses the objection and submits that each of claims 35-41 are in condition for allowance. Each of claims 35-41 recites additional elements beyond those of base claim 34 from which each depends. Applicant respectfully submits that claim 35 is novel and non-obvious for at least the reasons cited earlier, and thus, it appears that claims 35-41 are also in condition for allowance.

Reconsideration and allowance of claims 35-41 are respectfully requested.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612) 373-6911 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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Date September 22, 2003

By



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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner of Patents, P.O.Box 1450, Alexandria, VA 22313-1450, on this 22 day of September, 2003.

Candis B. Buending

Name



Signature